

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201368176
Issue No.: [REDACTED]
Case No.: [REDACTED]
Hearing Date: December 18, 2013
County: Ingham

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on December 18, 2013, from Lansing, Michigan. Claimant and her Court appointed conservator, Attorney [REDACTED], appeared and testified. Participants on behalf of the Department of Human Services (Department) included AP [REDACTED].

ISSUE

Did the Department properly close Claimant's Medical Assistance (MA) and Medicare Savings Program on September 1, 2013 for failure to provide required verifications?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On January 24, 2011, Attorney [REDACTED] was appointed as conservator of Claimant's estate by Ingham County Probate Court. In her capacity as conservator, the Probate Court requires [REDACTED] to maintain a surety bond as protection of Claimant's estate.
2. Claimant was an ongoing recipient of Medical Assistance (MA), Medicare Savings Program and Food Assistance Program (FAP) benefits. Claimant's FAP eligibility was due for re-determination.
3. On July 19, 2013, a Verification Checklist (DHS Form 3503) was sent requesting verification of Claimant's assets to determine her eligibility Medical Assistance (MA), Medicare Savings Program. The verifications were due back on July 29, 2013.

4. On August 14, 2013, Claimant was sent a Notice of Case Action (DHS-1605) stating her Medical Assistance (MA) and Medicare Savings Program benefits would end on September 1, 2013, for failure to provide required verifications. The notice also stated Claimant's Food Assistance Program (FAP) benefits were being reduced.
5. On August 19, 2013, Conservator Bovee submitted a request for hearing about Medical Assistance (MA).

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

The surety bond required by Probate Court and paid for by Conservator [REDACTED] e, is the major focus of the evidence and arguments submitted by the Department in support of the negative action in this case. The bond protects the value of Claimant's estate in case the Conservator does not fulfill their fiduciary responsibilities assigned by the Probate Court. A less technical definition is; insurance for Probate Court, on Claimant's estate, if losses are caused by the court appointed Conservator's mismanagement. In the interest of "keeping an eye on the ball" the August 14, 2013, Notice of Case Action (DHS-1605) sent to Claimant states her benefits were terminated because required verifications were not submitted.

Part of the documentation provided to the Department by Conservator Bovee included verification of payment for the required surety bond. The Department case worker who actually processed Claimant's re-determination was not present at this hearing. Conservator Bovee submitted evidence that on August 29, 2013, the processing DHS worker made telephone contact and stated the Department thought the value of the surety bond [REDACTED] was an available asset for Claimant and that that Claimant should be billed for past years of medical benefits.

The August 14, 2013, Notice of Case Action (DHS-1605) sent to Claimant states her benefits were terminated because required verifications were not submitted. There is an asset limit for Food Assistance Program (FAP) benefits also. The notice did not state that Claimant's FAP was closing for failure to provide verifications. There is no clear evidence in this record showing that the required verifications of Claimant's assets were not provided timely. The activity and communication which occurred AFTER this request for hearing, indicate someone in the Department thought the surety bond was an available asset which made Claimant ineligible due to excess assets.

The evidence in this record does show that verification of all of Claimant's assets was not submitted in the required time. Classification of the surety bond as an available asset of Claimant's is not a question properly in jurisdiction. While evidence in this record speaks strongly against that position, no specific conclusions of law will be made regarding the surety bond.

A detailed analysis of the evidence presented, applicable Department policies, and reasoning for the decision are contained in the recorded record. During the hearing Claimant was informed of the decision and the reasoning behind the decision.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's Medical Assistance (MA) and Medicare Savings Program on September 1, 2013 for failure to provide required verification.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Re-instate Claimant's Medical Assistance (MA) and Medicare Savings Program.
2. Re-determine Claimant's Medical Assistance (MA) and Medicare Savings Program eligibility in accordance with Department policy beginning September 1, 2013.
3. Apply any Medical Assistance (MA) and Medicare Savings Program coverage Claimant was eligible for in accordance with Department policy.

/s/
Gary F. Heisler
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 01/10/2014

Date Mailed: 01/10/2014

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

GFH/sw

cc:

